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Review of “Cases on Pleading and Procedure,” By Charles Clark

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he shall be put to death, as being incorrigible" (p. 4). Gamblers were subject to the following penalty: "Nor shall any person at any time play or game for any monie, or mony-worth upon penalty of forfeiting treble the value thereof: one half to the partie informing, the other half to the Treasurie" (p. 24). Roman Catholics were not welcome in this Puritan community: "No Jesuit, or spiritual or ecclesiastical person [as they are termed] ordained by the authoritie of the Pope, or Sea of Rome shall henceforth at any time repair to, or come within this Jurisdiction" (p. 26). Tippling and drunkenness, not infrequent in rum-making New England, were regulated as follows: "And everie person found drunken viz: so that he be thereby bereaved or disabled in the use of his understanding, appearing in his speech or gesture in any the said houses [inns] or elsewhere shall forfeit ten shillings. And for excessive drinking three shilling four pence. And for continuing above half an hour tippling two shillings six pence. And for tippling at unseasonable times, or after nine a clock at night five shillings. . . And for want of payment such shall be imprisoned untill they pay: or be set in the Stocks one hour or more [in some open place] as the weather will permit not exceeding three hours at one time" (p. 30). Profanity was abhorrent to the Puritan: "If any person within this Jurisdiction shall swear rashly and vainly either by the holy Name of God, or any other oath, he shall forfeit to the common Treasurie for everie such severall offence ten shillings. . . And if such person be not able, or shall utterly refuse to pay the aforesaid Fine, he shal be committed to the Stocks there to continue, not exceeding three hours, and not lesse then one hour" (p. 45).

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CASES ON PLEADING AND PROCEDURE, Volume 1, by *Charles E. Clark*. St. Paul: West Publishing Company. 1930. Pp. 674.

This is the first volume, containing 674 pages, of a two volume work on Pleading and Procedure. The most striking feature of the volume is its extreme departure from the conventional casebook model of 30 years ago. Authorities other than cases are more numerous in the formal text of this book than cases. These other authorities are: comments by the editor, statutes, rules of court, forms of process and court orders both ancient and modern, extracts from standard textbooks and legal histories, extracts from legal essays, and short isolated extracts from judicial opinions. A second striking feature is the obvious intention on the part of the editor that the student using this book should regard pleading and procedure, not as a mere set of local rules, but as an evolved and evolving system in Anglo-American jurisprudence, with at least a moiety of uniformity, and having for its chief purpose the effective application of substantive law. A third feature is the emphasis placed upon the possibility of great and imminent improvement in the field of adjective law. A fourth and final feature is the importance attached to recent judicial decisions. Almost all the "cases" in this book, as distinguished from "other authorities," are twentieth century cases.

The arrangement of the book is novel. The first part relates to claims for personal injuries, although some of the topics treated, such as institution of suit and functions of judge and jury, are obviously intended to be

also pertinent to other claims. The second part has to do with contract cases. The third part relates to actions concerning personality and realty. The fourth part, on equity, is a particularly useful selection of authorities on early equity and the amalgamation of equity and common law under modern codes. Throughout the book stress is laid on those features of all systems of pleading which are essentially the same. Differences are seen to be historical and geographical rather than necessary.

This volume is intended for the use of first year students. Evidently it is hoped that chief attention will be paid to recent cases in modern courts and that from the actual reality of the present the student will work back to the historical origins of procedure, and also will work forward toward an improved system in the future. The scope of the volume is not the same as that of any other existing book. This will mean some modification of the curriculum in those schools where the volume is to be adopted. The ultimate value of this book in law schools will have to be determined by experience. One practical problem suggests itself at once. The volume under review does not include adequate material for a study of the difference between proceedings in rem and proceedings in personam. If this subject is not to be covered in a course on procedure in the first year, it will have to be covered in some other course—perhaps in a course based on Mr. Clark's second volume of Pleading and Procedure, not yet fully described but intended for second year students, or perhaps in a course on conflict of laws. Another and more general problem will arise in the minds of thoughtful lawyers reading this work. It is this. To what extent should a modern law school be an institution for reform in jurisprudence? Most thoughtful lawyers will agree at least in this, namely, that there is more reason for stimulating a quest for reform in the field of procedure than in the field of substantive law.

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LAW OF INSURANCE, by *William R. Vance*. Second Edition. St. Paul: West Publishing Co., 1930. Pp. xv, 1104.

The first noticeable difference between this edition and the previous one, and in fact all other books of the Hornbook series, is the cover. The publisher has taken a cue from the automobile manufacturers and is bringing out its latest product in a new color which will help to brighten up the library. The cover is of dark red leatherette, which seems to the reviewer to be much better than the traditional bound buckram.

But the sole change is not in the cover. A great many changes have been made in the text. As Mr. Vance explains in the preface, the twenty-four years which have elapsed since he wrote the first edition have seen the business of insurance quadrupled in volume, and the case law dealing with it doubled. Further, many new lines of insurance have been offered so that now almost any risk may be covered. With this vast change in the business and law of insurance, a new work on the subject was needed. This book comes in good time, and being by an eminent authority it should fill a niche in the library of the modern lawyer and student.

The second edition is not merely an annotated copy of the first, but is in most parts rewritten with entirely new sections where needed. This is notably true in the chapters devoted to the discussion of waiver and estop-